IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3359 OF 1996

P.F. Beldar ... Petitioner

V/s

The Divl. Controller,
Mah. State Road Transport Corpn. ... Respondents

Miss Seema Sarnaik for the petitioner.

None for the respondents.

CORAM: P.V. KAKADE, J.

DATED: 10TH JANUARY, 2006

P.C.:

1. Heard learned counsel for the petitioner. None appears for the respondents.

2. The only question sought to be agitated is in respect of 50% back wages which are not granted by the Labour Court, Nasik, while passing order dated 11.4.1996 with declaration that the order of dismissal of the workman petitioner herein was not justified and, therefore, it was set aside and the employer respondent was directed to reinstate the workman with continuity of service and 50% back wages from the date of dismissal

i.e. 29.6.1990 till his reinstatement.

3. The learned counsel for the petitioner submits that the observations made by the learned Labour Judge to the effect that the petitioner was not entitled to 50% back wages only on the ground that he was punished by the employer from time to time on various occasions and, therefore, he was not entitled for full back wages.

In this regard, I must take into account the ruling of the Supreme Court in the case of **Allabad Jal Sansthan v/s Daya Shankar rai & anr., reported in 2005 II C.L.R. 453,** wherein the Apex Court had laid down the law to the effect that when the workman neither raised any plea nor had adduced any evidence that he remained unemployed throughout the period of termination till the date of reinstatement, in the interest of justice he would be subserved by awarding only 50% of back wages. The Apex Court, after taking review of various other rulings on this point of its own was of the view that with the passage of time it has come to be realized that industry is being compelled to pay the workman for a period during which he apparently contributed little or nothing at all for a period that was spent unproductively while the workman is being compelled to go back to a situation

which prevailed many years ago when he was dismissed. Therefore, it was necessary for the Court to develope a pragmatic approach to problems dogging industrial relations. However, no just solution can be offered but the golden mean may be arrived at. With this observation, the apex Court has concluded that interest of justice would be sub-served if the respondent is directed to pay 50% of back wages where there is no evidence led by the workman that he was not employed during the course of dismissal.

4. Therefore, applying this ratio of the Apex Court, I do not see any reason why the order passed by the Labour Court should be disturbed and, as such, the petition deserves to be dismissed and stands dismissed with no order as to costs.

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